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Filing date: **11/01/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Conopco, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	700 Sylvan Avenue Englewood Cliffs, NJ 07632 UNITED STATES		

Attorney information	Gregory P. Gulia Duane Morris LLP 1540 Broadway New York, NY 10036-4086 UNITED STATES gpgulia@duanemorris.com, mafrank@duanemorris.com, vchew@duanemorris.com
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Registration Subject to Cancellation

Registration No	4313150	Registration date	04/02/2013
Registrant	Skimpy Cocktails LLC #230 Carrollton, TX 75006 TX		

Goods/Services Subject to Cancellation

Class 032. First Use: 2012/06/01 First Use In Commerce: 2012/06/15
All goods and services in the class are cancelled, namely: Non-alcoholic cocktail mixes

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Petitioner as Basis for Cancellation


U.S. Registration No.	4396616	Application Date	04/20/2011
Registration Date	09/03/2013	Foreign Priority Date	NONE
Word Mark	SICLE		

Design Mark	SICLE
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2011/11/00 First Use In Commerce: 2011/11/00 Ice creams, frozen confections


U.S. Registration No.	2421400	Application Date	02/16/2000
Registration Date	01/16/2001	Foreign Priority Date	NONE
Word Mark	POPSICLE		
Design Mark	POPSICLE		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1923/00/00 First Use In Commerce: 1923/00/00 Frozen confections		

U.S. Registration No.	1840718	Application Date	02/22/1993
Registration Date	06/21/1994	Foreign Priority Date	NONE
Word Mark	POPSICLE THE ORIGINAL BRAND		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 1988/01/01 First Use In Commerce: 1988/01/01 frozen confections

U.S. Registration No.	2668524	Application Date	09/26/2001
Registration Date	12/31/2002	Foreign Priority Date	NONE
Word Mark	POPSICLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2000/03/01 First Use In Commerce: 2000/03/01 ice cream		

U.S. Registration No.	2651685	Application Date	09/26/2001
Registration Date	11/19/2002	Foreign Priority Date	NONE
Word Mark	THE ORIGINAL BRAND POPSICLE		


Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2000/03/01 First Use In Commerce: 2000/03/01 ice cream		


U.S. Registration No.	1839541	Application Date	02/22/1993
Registration Date	06/14/1994	Foreign Priority Date	NONE
Word Mark	CREAMSICLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1937/01/15 First Use In Commerce: 1937/01/15 frozen confections		


U.S. Registration No.	1840719	Application Date	02/22/1993
Registration Date	06/21/1994	Foreign Priority Date	NONE
Word Mark	CREAMSICLE THE ORIGINAL BRAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1988/01/01 First Use In Commerce: 1988/01/01 frozen confections		

U.S. Registration No.	434594	Application Date	11/09/1946
Registration Date	11/25/1947	Foreign Priority	NONE

		Date	
Word Mark	FUDGSICLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U046 (International Class 001, 005, 029, 030, 031, 032). First use: First Use: 1946/10/04 First Use In Commerce: 1946/10/04 FROZEN CONFECTIONS[AND POWDERED CONCENTRATES FOR MAKING THE SAME]		

U.S. Registration No.	1840717	Application Date	02/22/1993
Registration Date	06/21/1994	Foreign Priority Date	NONE
Word Mark	FUDGSICLE THE ORIGINAL BRAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1988/01/01 First Use In Commerce: 1988/01/01 frozen confections		

U.S. Registration No.	4150906	Application Date	09/23/2010
Registration Date	05/29/2012	Foreign Priority Date	NONE
Word Mark	YOSICLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2012/02/15 First Use In Commerce: 2012/02/15 Ice cream, frozen confections, frozen yogurt		

U.S. Registration No.	3178063	Application Date	11/09/2004
Registration Date	11/28/2006	Foreign Priority Date	NONE
Word Mark	CHOCSICLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2005/02/00 First Use In Commerce: 2005/02/00 frozen confections		

Attachments	85299678#TMSN.jpeg(bytes) 75921375#TMSN.gif(bytes) 74362545#TMSN.gif(bytes) 76317760#TMSN.gif(bytes) 76317761#TMSN.gif(bytes) 74362546#TMSN.gif(bytes) 74362543#TMSN.gif(bytes) 85136228#TMSN.jpeg(bytes) 78513947#TMSN.jpeg(bytes) CANCEL - PINEAPPLESICLE 4313150.pdf(348869 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mitchell A. Frank/
Name	Mitchell A. Frank
Date	11/01/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Registration No. 4,313,150

Mark: PINEAPPLESICLE

Registered: April 2, 2013

CONOPCO, INC.,	-----X	:	
		:	
Petitioner,		:	
		:	
v.		:	Cancellation No.: _____
		:	
SKIMPY COCKTAILS LLC, D/B/A		:	
SKIMPY MIXERS,		:	
		:	
Respondent		:	
	-----X		

PETITION TO CANCEL

Petitioner, Conopco, Inc., a corporation organized and existing under the laws of Delaware, having a principal place of business at 700 Sylvan Avenue, Englewood Cliffs, New Jersey 07632 ("Petitioner"), believes that it is being and will continue to be damaged by the continued registration on the Principal Register of the mark PINEAPPLESICLE for "non-alcoholic cocktail mixes" in International Class 32, as shown in U.S. Registration No. 4,313,150 ("Registration"), issued on April 2, 2013 to Skimpy Cocktails LLC, d/b/a Skimpy Mixers ("Respondent"), and hereby petitions to cancel the Registration pursuant to Section 14 of the Trademark Act of July 5, 1946, 15 U.S.C. §1064.

As grounds for cancellation, Petitioner, through its undersigned counsel, alleges as follows:

1. Petitioner is the owner of all right, title and interest in and to the following trademarks and registrations therefor issued by the United States Patent and Trademark Office for trademarks incorporating "SICLE" (hereinafter collectively referred to as the "SICLE Family of Marks").

MARK	REGISTRATION NUMBER	REGISTRATION DATE	FIRST USE DATE	GOODS
SICLE	4,396,616	September 3, 2013	November 2011	ice creams, frozen confections
POPSICLE	2,421,400	January 16, 2001	1923	frozen confections
POPSICLE THE ORIGINAL BRAND (and Design)	1,840,718	June 21, 1994	January 1, 1988	frozen confections
POPSICLE	2,668,524	December 31, 2002	March 1, 2000	ice cream
POPSICLE THE ORIGINAL BRAND (and Design)	2,651,685	November 19, 2002	March 1, 2000	ice cream
CREAMSICLE	1,839,541	June 14, 1994	January 15, 1937	frozen confections
CREAMSICLE THE ORIGINAL BRAND (and Design)	1,840,719	June 21, 1994	January 1, 1988	frozen confections
FUDGSICLE	434,594	November 25, 1947	October 4, 1946	frozen confections and powdered concentrates for making the same
FUDGSICLE THE ORIGINAL BRAND (and Design)	1,840,717	June 21, 1994	January 1, 1988	frozen confections
YOSICLE	4,150,906	May 20, 2012	February 15, 2012	ice creams, frozen confections, frozen yogurt
CHOCSICLE	3,178,063	November 28, 2006	February 2005	frozen confections

2. The following registrations referenced above are incontestable pursuant to the provisions of Section 15 of the Lanham Act, 15 U.S.C. § 1065, and accordingly constitute conclusive evidence of the validity of the registered marks and the registrations therefor, of Petitioner's ownership of the registered marks, and of Petitioner's exclusive right to use the marks covered by the registrations in commerce in connection with the goods specified in the registrations: POPSICLE® (Reg. No. 2,421,400) (for frozen confections), POPSICLE THE ORIGINAL BRAND (and Design)® (Reg. No. 1,840,718) (for frozen confections), POPSICLE® (Reg. No. 2,668,524) (for ice cream), POPSICLE THE ORIGINAL BRAND (and Design)® (Reg. No. 2,651,685) (for ice cream), CREAMSICLE® (Reg. No. 1,839,541) (for frozen confections), CREAMSICLE THE ORIGINAL BRAND (and Design)® (Reg. No. 1,840,719) (for frozen confections), FUDGSICLE THE ORIGINAL BRAND (and Design)® Reg. No. 1,840,717) (for frozen confections) and CHOCSICLE, Reg. No. 3,178,063 (for frozen confections).

3. The registrations noted above for SICLE® (Reg. No. 4,396,616), YOSICLE® (Reg. No. 4,150,906) and FUDGSICLE® (Reg. No. 434,594) are valid and subsisting, in full force and effect, and constitute *prima facie* evidence of the validity of the registered marks and of Petitioner's exclusive right to use the marks in commerce in connection with the goods specified in the registration.

4. Petitioner and its predecessors-in-interest and their licensees have used one or more of the SICLE Family of Marks in commerce in connection with the nationwide production, distribution, sale and promotion of frozen confections and/or ice cream for ninety years.

5. Sales of products under the SICLE Family of Marks have been enormous, and POPSICLE® is the number one kids frozen novelty brand in the United States.

6. Petitioner and its predecessors-in-interest have spent many millions of dollars over the past ninety years to advertise and promote products sold under the SICLE Family of Marks through a wide variety of media throughout the United States, including television, radio, print and a website located at www.popsicle.com.

7. In addition to the use of the SICLE Family of Marks for frozen confections and ice cream, Petitioner and its predecessors-in-interest, through their licensees, use and/or have used, and own and/or have owned federal registrations for, the SICLE Family of Marks on a wide variety of other products, including, but not limited to, lip gloss, lipstick, bracelets, toothbrushes, lollipops, body powder, toilet water, hand sewing patterns, sunglasses, toys, dolls, toy cars, toy trains, puzzles, board games, paper goods, footwear and toilet soap ("Collateral Products").

8. Petitioner is also the owner of pending applications to register the POPSICLE, CREAMSICLE and FUDGSICLE marks for "tops (clothing); jackets; knit tops; tank tops; fleece bottoms;; loungewear; pajamas; robes; socks and stockings" (Serial Nos. 86049497, 86049481, and 86049517, respectively).

9. Petitioner is also the owner of pending applications to register the POPSICLE, CREAMSICLE and FUDGSICLE marks for "candy; sweets; chocolate; chocolate confections [and] confectionery made of sugar" (Serial Nos. 86049490, 86049471 and 86049486, respectively).

10. Because of Petitioner's extensive advertising, promotion and use of the SICLE Family of Marks, those marks have acquired enormous value and symbolize the extensive goodwill and consumer recognition that Petitioner has established through massive expenditures of time, effort and other resources.

11. Through the extensive and continuous use and promotion of the SICLE Family of Marks, Petitioner has established a public perception of the distinctive "SICLE" Family of Marks as an indication of source of only Petitioner's goods.

12. As a result of the regular, extensive and well-publicized use of the SICLE Family of Marks by Petitioner and its predecessors-in-interest, the SICLE Family of Marks are associated exclusively with Petitioner and its high quality products.

13. Accordingly, the public will perceive that any mark ending in SICLE is another in Petitioner's SICLE Family of Marks, and will believe that any such products emanate from or are otherwise associated with Petitioner and its products sold under the SICLE Family of Marks. This is particularly true where, as here, the designation SICLE is used in combination with the name of a fruit, since many of Petitioner's products sold under the SICLE Family of Marks are fruit-flavored.

14. On September 28, 2012, Respondent applied for registration of the mark PINEAPPLESICLE for the goods identified in the Registration, claiming a date of first use in commerce of June 15, 2012.

15. Respondent's claimed date of first use is long after Petitioner's first use of the SICLE Family of Marks, both individually and collectively, not only in respect of frozen confections and ice cream, but in respect of the Collateral Products, as well.

16. The Registration issued on April 2, 2013, also long after Petitioner's first use of the SICLE Family of Marks on both frozen confections and ice cream and the Collateral Products.

17. Accordingly, Petitioner commenced use of the SICLE Family of Marks long prior to any date of first use on which Respondent can rely, and therefore Petitioner has clear priority over Respondent.

18. Petitioner has acquired exclusive rights in the SICLE Family of Marks, individually and collectively, that substantially predate any rights upon which Respondent may rely.

19. Petitioner's rights to the SICLE Family of Marks, individually and collectively, are superior to those of Respondent.

20. Petitioner's SICLE Family of Marks, and each of them, are famous and were famous on and before any use of the PINEAPPLESICLE designation by Respondent.

21. The "SICLE" portion of Respondent's PINEAPPLESICLE designation is identical to that in Petitioner's SICLE Family of Marks.

22. Respondent's designation PINEAPPLESICLE is clearly intended to evoke Petitioner's SICLE Family of Marks and trade on Petitioner's vast goodwill and equity.

23. Petitioner believes that it is being and will continue to be damaged by registration of Respondent's PINEAPPLESICLE designation under Section 14 of the Lanham Act, 15 U.S.C. § 1064, because consumers familiar with Petitioner's famous SICLE Family of Marks, individually and collectively, are likely to mistakenly believe that Respondent and/or its products emanate from, are sponsored or authorized by and/or are otherwise associated or affiliated with Petitioner, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

24. Petitioner further believes it is being and will continue to be damaged by registration of the PINEAPPLESICLE designation under Section 14 of the Lanham Act, 15 U.S.C. § 1064, because the use and registration of the PINEAPPLESICLE designation is likely


to dilute the distinctive quality of Petitioner's famous SICLE Family of Marks, individually and collectively, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

WHEREFORE, Petitioner believes that it is being and will continue to be damaged by registration of the designation PINEAPPLESICLE shown in Registration No. 4,313,150 and respectfully requests that such Registration be cancelled.

Dated: November 1, 2013

Respectfully submitted,

I hereby certify that this correspondence is being filed by electronic transmission in the United States Patent and Trademark Office, Trademark Trial and Appeal Board on the date shown below.


Inez P. Vega
Dated: November 1, 2013

By: /Mitchell A. Frank/

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Attorneys for Petitioner
CONOPCO, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 1, 2013 a true and correct copy of the foregoing Notice of Cancellation was served, via prepaid first class mail, on Skimpy Cocktails LLC, d/b/a Skimpy Mixers, at the address indicated below:

Skimpy Cocktails LLC
d/b/a Skimpy Mixers
#230
1000 E Belt Line
Carrollton, Texas 75006



Inez P. Vega